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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,820	06/23/2003	Martin Bentham	2197.016USX	9080

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EXAMINER

EINSMANN, MARGARET V.

ART UNIT PAPER NUMBER

1751

DATE MAILED: 10/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/601,820	BENTHAM, MARTIN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Margaret Einsmann	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☐ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Double Patenting***

The provisional rejection of claims 1-21 under 35 U.S.C. 101 as claiming the same invention as that of claims 1-21 of copending Application No. 10/10/386161 has been mooted by the abandonment of application 10/387161.

### ***Claim Rejections - 35 USC § 112***

The rejection of claim 11 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention has been mooted by applicant's amendment to claim 11.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Berwin et al., US 2,990,087. In the process of Berwin's invention textile materials, especially hosiery, are placed over forms to maintain the desired shape. This is equivalent to applicant's first process step in claim 1, "removing folds from the fabric" as well as applicant's first process step in claim 12 and it also meets the limitations of claims 13-15. See col 4 line 24 et seq. The dye mixture of water base, dyestuff, resin, surface

active agent and lubricant is sprayed by rotating the spray and jetting the spray through the jet nozzles. See col 4 lines 5-23. This meets the limitation of claim 16. The atmosphere in the dyeing chamber is superatmospheric pressure which provides for the migration and fixation of the dye. Though no steam is added to dilute the solution, the superatmospheric pressure at the boiling point is a steam fixation step. The dyeing, scouring, finishing, lubricating and setting occurs in from 1-30 minutes, preferably 4 or 5 minutes. Then the textile material is dried. See entire column 4.

Regarding the limitation of claims 2, 3, 4,5, 17-20 nylon is a polyamide which has a reactive amine site. Patentee also teaches that other natural and synthetic fibers or mixtures thereof may be treated by this invention. See col 3 lines 45-56. Regarding the limitation of claims 6, 7 and 21. Note the examples in columns 7-8, Table-part I. Acid dyes on wool, silk and nylon are used. These are water soluble dyes. As is known to the dye chemist, ionic bonds form from these dyeing processes wherein the amine site reacts with the acid functionality on the dye. Note that disperse dyes are used on several examples (6,7,18,19). These dyeing processes produce a disbursement into the fiber molecule. Accordingly since all of the material limitations of the claims are met, the claims are anticipated.

This rejection is maintained as set forth in the previous action. Applicant's amendment "to minimize over-spray of said dye" is not a separate process step because applicant has not defined a process step in the claim which would accomplish that objective. All of the claimed steps are disclosed by the reference.

Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Kronsbein et al., US 2,985,502. A process for dyeing synthetic textile garments is disclosed. Noting figures 1 and 2 and the description in column 2, nylon stockings are mounted on individual supports which stretch the wrinkles out of them, thus meeting the first step of applicant's claims 1 and 12. The upper part of the tank is provided with spray nozzles which produce a spray. At the same time dye is admitted into the tank, steam is admitted into tank 1 through the steam intake pipe 11. The pressure is maintained during the entire dyeing process, which for the dyeing of 16 stockings, is 6 minutes. Accordingly the second step of spraying onto a first side of the fabric is clearly disclosed. Applicant's third step of exposing to a migration and fixation process prior to drying (specifically exposing to steam and heat as claimed in claim 8) is disclosed as the steaming occurs simultaneously with the dyeing. Nylon meets the limitation of having amine sites to react with the dye; the metal complex dye disclosed in col 3 line 13 meets the limitation of a water soluble dye. Accordingly the limitations of the claims are disclosed.

This rejection is maintained as set forth in the previous action. Applicant's amendment "to minimize over-spray of said dye" is not a separate process step. Applicant has not claimed a process step in the claim which would accomplish that objective. All of the claimed steps are disclosed by the reference.

Applicant's amendment has resulted in the new grounds of rejection.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant's amendment, "to minimize over-spray of said dye" has no basis in the originally filed specification. Applicant has not pointed to any basis for said amendment in the specification.

Claims 1-4,6,7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kirk, US 2,872,277. Kirk teaches a method of coloring leather which is a natural polyamide fabric material comprising spraying leather with an aqueous bath containing a sulfuric acid ester salt of a leuco vat dyestuff and an oxidizing agent, and then treating the sprayed leather with an acid solution. The dye reacts with the fiber material and is fixed by the acid. Only sufficient dye solution is sprayed on the leather to achieve the desired depth of shade. Better control of the dyeing process and better dyeings are obtained. See column 1 lines 60-65, col 2 lines 1-8 and example 1 in column 5 lines 8-24 wherein glove leather is dyed.


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret Einsmann whose telephone number is 571-272-1314. The examiner can normally be reached on 7:00 AM -4:30 PM M-Th and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Margaret Einsmann  
Primary Examiner  
Art Unit 1751

October 21, 2004